IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 11447 of 2007(K)

OS.234/1999 of ADL.SUB COURT, THALASSERY

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PETITIONER:

CHUDUKADAN KUNHAMINA UMMA,
AGED 57 YEARS, D/O.MOIDEEN, NO OCCUPATION,
RESIDING AT AZHIKODE, OLADA-THAZHA,
KANNUR-9.

BY ADV. SRI.C.KHALID
SRI.N.GOPINATHA PANICKER
SRI.T.P.SAJID

RESPONDENTS:

MANDAYAN KAYAKKEN RATNARAJ,
AGED 50 YEARS, S/O.NARAYANAN, RESIDING AT
TALAP, KANNUR, NOW RESIDING AT ORDEN ROAD,
KANNUR-1.

BY ADV. SRI.V.RAMKUMAR NAMBIAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) No. 11447 of 2007 APPENDIX

Ext.P1: True copy of the Judgment dated 16-3-2006 in W.P.(C) No. 33493 /2005

Ext.P2: True copy of draft proclamation of sale of immovable property dated 9-3-2007 in E.P. 338/2003 in O.S. 234/1999

Ext.P3: True copy of the plan of item No. 1 & 2

Ext.P4: True copy of the payment receipt dated 27-5-2006, 24-11-2006 and 12-2-7

//True copy//

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M.N. KRISHNAN, J.

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W.P.C. NO. 11447 OF 2007

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Dated this the 5th day of June, 2007.

J U D G M E N T

This writ petition is filed seeking to quash Ext.P2 draft proclamation. I am informed that the decree amount is about 5 lakhs and only an amount of Rs.25,000/- had been paid till date. When the entire property was proclaimed to be sold in auction the present writ petitioner rushed to this Court and this Court directed the decree holder to file a fresh draft sale proclamation limiting prayer for sale of portion of the property excluding the residential building. Accordingly a revised proclamation has been produced and sale is ordered on the basis of that draft proclamation. One cannot find fault with the decree holder and he has only complied with the directions of this Court.

Now the learned counsel for the writ petitioner strongly contends that she must be given an opportunity to wipe off the decree debt by affording some time and her client is eager to discharge the decree debt. The learned counsel for the decree holder does not have serious objection provided the judgment debtor pays the amount within a reasonable time. Therefore,

taking in to consideration the entire materials and the submissions made by the learned counsel for the parties the writ petition is disposed of as follows:

The writ petitioner is directed to pay a sum of Rs.1 lakh to the decree holder on or before 6.7.07 and continue to pay the balance in 5 monthly equal instalments commencing from 5.8.07 onwards. If the writ petitioner fails to pay the amount of Rs.1 lakh before 6.7.07 or commits default of one of the instalments, then the decree holder is at liberty to proceed with the sale of the property on the basis of the draft proclamation, Ext.P2 which is strictly in conformity with the order passed by this Court on the earlier petition.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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